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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,178	10/31/2003	Tushar Udeshi	34003.83	9901

27683 7590 11/27/2006

HAYNES AND BOONE, LLP
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DALLAS, TX 75202

EXAMINER

ONI, OLUBUSOLA

ART UNIT	PAPER NUMBER
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2168

DATE MAILED: 11/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/698,178	Applicant(s) UDESHI ET AL.	
	Examiner Olubosola Oni	Art Unit 2168	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
 b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1-55.
 Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
 13. ☐ Other: _____.



TIM VO
SUPERVISORY PATENT EXAMINER
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Olubosola Oni
 Patent Examiner
 Art Unit: 2168

Applicant's arguments filed 11/10/06 have been fully considered but they are not persuasive.

Regarding Applicants argue that Kanefsky does not disclose performing an operation on the hierarchical data tree, and the Examiner respectfully submits that Kanefsky discloses visiting an anchor node in the tree (paragraphs [0067-68] among other relevant disclosures as noted on page 18 of the Final Action mailed 9/22/06. Therefore Kanefsky does disclose this limitation.

Applicants argue that Kanefsky does not disclose a cache containing data pairs, where each pair includes pre-operation and post-operation data, and where each pair corresponds to an anchor node and a plurality of neighboring nodes. It is respectfully submitted that Kanefsky discloses querying a cache for a key representing the anchor node and the plurality of neighboring nodes in a pre-operation condition based on the retrieved data, wherein the cache stores pre-operation/post-operation data pairs (paragraphs [0020-0023,0032-0035] as noted on pages 18-19 of the Final Action mailed 9/22/06. Therefore Kanefsky does disclose this limitation.

Applicants argue that Kanefsky does not disclose replacing pre-operation data with cached post-operation data or generated post-operation data depending on whether the query finds a match. It is respectfully submitted that Kanefsky discloses that if the query finds a match, replacing the pre-operation retrieved data with cached post-operation data (paragraphs [0021-0022]) and if the query does not find a match performing the operation on the pre-operation retrieved data to generate post-operation data replacing the pre-operation retrieved data with the post-operation data and storing the post-operation data in the cache with the associated pre-operation retrieved data (paragraphs [0021-22,0038]), as noted on pages 18-19 of the Final Action mailed 9/22/06. Therefore Kanefsky does disclose this limitation.

Applicants argue that Kanefsky does not disclose a system for performing an operation on a hierarchical tree, means for querying a pre-/post-operation data pair cache for a key representing the anchor node and the plurality of neighboring nodes in a pre-operation condition, and means for replacing pre-operation data with cached post-operation data or generated post-operation data depending on whether the query finds a match, these limitations were argued above.

In response to applicant's argument that Kanefsky, Hsuing, and Schreiber in various combinations are nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, the cited references are all similar at least in the respect that they deal with databases and data structure, and therefore the argument that they are nonanalogous does not apply in this case.